IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

Crl.Rev.Pet.No. 163 of 2000()

CRA.426/1998 of SESSIONS COURT, KOZHIKOE
CC.453/1997 of JUDL.MAGISTRATE OF FIRST CLASS-II, PERAMBRA

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REVN. PETITIONER:

SREENIVASAN,
S/O. CHANDU,
KADUKKADUMMAL,
MENHANIAM AMSOM DESOM.

BY ADV. SRI.P.V.KUNHI KRISHNAN

RESPONDENTS:

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY ADV. SRI. BREEZE M.S., PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 14/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL. M.P. NO. 937/2000 IN CRL. R.P. NO. 163/2000

DISMISSED

14.03.2007 SD/- K.R. UDAYABHANU, JUDGE.

/True Copy/

P.A to Judge.

K.R. UDAYABHANU, J

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CRL. R.P. NO. 163 OF 2000

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Dated this the 14th day of March 2007

O R D E R

The revision petitioner stands convicted for the offence under Section 325 of the Indian Penal Code and sentenced to undergo simple imprisonment for six months. Although charge sheeted, there was no evidence with regard to offence under Section 447 of IPC. The accused was acquitted with respect to the above offence.

2. The prosecution case is that on 11.05.1995 at 3.30 p.m. the accused tresspassed into the shopping complex where the the automobile spare parts shop of the father of the defacto complainant is situated and slapped on his face and as a result of which one of his tooth was uprooted. It is the case of the revision petitioner that he is not at all involved in the incident and that there is no positive evidence to implicate him.

3. It is seen that the incident has taken place at 3.30 p.m. and the FI statement was entered at 7 p.m. and he was referred

to the hospital and the doctor examined him at 8.35 p.m. In the FI statement the allegation is that the person, who can be identified slapped on the petitioner's face, when he went near an auto rickshaw when the vehicle was suddenly stopped in the road in front of his shop. PW1 the injured was examined. He has stated that he has seen the accused for the first time at the court after the incident. PW1 has examined after about 3 years of the incident. PW1, the occurrence witnesses has also deposed that he has seen the accused after the incident for the first time in the court and both of them have no prior acquaintance and are not aware of the name of the accused. PW10 the Investigating Officer has testified that on 18.05.1995 the defacto complainant identified the accused from at the police station. It is mentioned by PW10 the Investigating Officer that the accused surrendered before the court and was released on bail as per the directions of the court and that the accused appeared at the police station. Evidently, the testimony of PW10 is contrary to the version of PW1 the defacto complainant. In the circumstances and in view of the conflicting version of PW1 the defacto complainant and

PW10 the Investigating Officer, I find that it cannot be upheld that the prosecution has established the guilt of the accused beyond reasonable doubt. In the circumstances, the conviction and sentence imposed on the revision petitioner is set aside. The revision petitioner stands acquitted.

The revision petition is allowed accordingly.

K.R. UDAYABHANU, JUDGE.

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